

1 sites had been petitioned by Time Warner and thus there had
2 been no Commission grant.

3 Q So you knew that these 12 or so addresses that Mr.
4 Price identified as ones currently being served were the
5 subject of Time Warner petitions to deny? Is that what
6 you're saying?

7 A Right.

8 Q And so you concluded that service was being
9 provided to those locations without a license, most likely?

10 A Well, knowing that they were petitioned and
11 therefore no grant had been issued on the one hand, and then
12 being informed on the other that service was in fact being
13 provided to those locations, I put two and two together and
14 deduced that service was being provided to these locations
15 without authorization.

16 Q Okay. And you testified on direct that -- that
17 you want -- there was a decision made in this call to do an
18 investigation. To ascertain whether or not this in fact was
19 really the case. Did I get that right?

20 A Mm Hm.

21 JUDGE SIPPEL: Answer yes or no.

22 A Yes, I'm sorry.

23 Q Now your office had a data base that Mr. Lehmkuhl
24 maintained that included information about the status of all
25 of Liberty's applications did it not?

1 A That's true.

2 Q And you knew that?

3 A That's true.

4 Q Okay. And Liberty knew what buildings it was
5 providing service to, did it not?

6 A I can only assume that it did.

7 JUDGE SIPPEL: Are your questions directed to him
8 as of April the 27th?

9 MR. BECKNER: Yes.

10 BY MR. BECKNER:

11 Q I mean do you understand that about my question,
12 Mr. Barr? That I'm referring to April 27th?

13 A We -- we had a database that indicated sites for
14 which Liberty had applied for and the status of those
15 applications, whether they were pending, petitioned,
16 granted, what have you.

17 Q That was I mean --

18 A Yes, we did have that, as did Liberty, since
19 Liberty was provided with the reports that came from that
20 database.

21 Q Okay. So -- so you had a list of applications and
22 their status. And the company knew where it was providing
23 service. What needed to be investigated?

24 A Well I can only assume that the company knew where
25 it was providing service. I think it needed the how and why

1 service had been commenced on -- to buildings for which no
2 authorization had been obtained, needed to be investigated.
3 It needed to be investigated whether Peter was correct at
4 that time that service was actually being provided.

5 Q Well, did -- in the conversation, did Mr. Price
6 indicate any -- any uncertainty as to whether or not the
7 company was in fact serving the particular locations that he
8 identified in the call?

9 A Again, I think he was taken aback by my reaction
10 of extreme concern over the information that Peter had --
11 that I had been given. And I think maybe he took a second
12 look at it and said well maybe I need to make sure that
13 we're actually providing service to these locations.

14 Q But initially he did not, I take it, that he did
15 not say words like "well I think we might be providing
16 service to these addresses or it could be that we're
17 providing services". That he only backed away from
18 certainty after you reacted.

19 A I'm not saying that he backed away.

20 JUDGE SIPPEL: Wait. Wait.

21 THE WITNESS: I apologize.

22 BY MR. BECKNER:

23 Q That he only backed away from, you know, and
24 expressed uncertainty after you expressed concern about the
25 situation.

1 A Again, I'm not sure backed away is the right word.
2 I think he was taken aback by what I said and felt the need
3 to investigate the situation.

4 Q Did it strike you at the time that it would be
5 unusual for the company not to know where it was providing
6 service?

7 A I don't think I thought about it.

8 Q Okay. I mean what I'm trying to separate out here
9 is -- is -- you've referred in your -- in investigation
10 really two different things. And I want to focus right now
11 on one of those two things and that is -- is was the company
12 or was it not providing service to a particular location for
13 which it did or did not have a license. That's sort of one
14 question, isn't it?

15 I mean it -- are they serving a particular address
16 and do they have a license for that address?

17 MR. SPITZER: I'd like to object, Your Honor.

18 JUDGE SIPPEL: Well yeah I'm going to sustain the
19 objection. Start that over again.

20 MR. BECKNER: All right.

21 JUDGE SIPPEL: Start that one over again.

22 MR. BECKNER: All right.

23 JUDGE SIPPEL: Just ask him one question at a
24 time.

25 MR. BECKNER: Okay.

1 BY MR. BECKNER:

2 Q Okay a question came up in the call, I take it, as
3 to whether or not Liberty was serving certain addresses
4 without licenses or other authority to do so correct?

5 A I think that needed to be investigated, yes.

6 Q Okay. Well let's just talk about it. What needed
7 to be investigated about that?

8 A Well, whether in fact Liberty was providing
9 service to those locations.

10 Q Okay. And -- and what you're saying is is that
11 Mr. Price expressed some uncertainty about whether or not
12 the company was in fact providing service to the dozen or so
13 addresses that he had disclosed to you in the call?

14 A I think it's more given the severity of the
15 problem that is, operating without a license that Liberty
16 needed to be certain that it was -- that what was told to us
17 at that conference call was true.

18 Q So did Mr. Price say I want to go back and check
19 and make sure that we're providing service to these
20 addresses?

21 A I think he did, yes.

22 Q Okay.

23 A And to also find out why and the whys and the hows
24 as to that -- as to that commencement of service to those
25 locations.

1 Q And he told you this on the 27th? That he wasn't
2 sure he was providing service -- his company was providing
3 service to the addresses he was giving?

4 JUDGE SIPPEL: Can you respond to that?

5 THE WITNESS: I think he's asked this question two
6 or three times already. Again, he conveyed information to
7 us that Liberty was operating at certain locations. My
8 response was that if true, this is a significant problem.

9 And the response was that this needs to be looked
10 into.

11 JUDGE SIPPEL: Let me just -- let me just ask a
12 question to get clarified in my mind. Was -- when Mr. Price
13 told you about the unauthorized activations, was he -- was
14 he sure of himself?

15 THE WITNESS: He -- I suppose he was. He
16 indicated to me that -- that service was being provided to
17 XY&Z locations.

18 JUDGE SIPPEL: So it -- your recollection is is
19 that when he told you this, that he had -- when Mr. Price
20 told you this, he was certain, I mean at least it sounded
21 like he had certainty. It sounded to you like he had
22 certainty that these -- these addresses which he identified
23 to you had been prematurely activated? Or were activated
24 without a license?

25 THE WITNESS: I had no reason to doubt the truth

1 of the information that he was giving me. I took it at face
2 value.

3 JUDGE SIPPEL: Again, I think you've already been
4 asked this question before, but then what specific things
5 was Mr. Price supposed to look for to do after that? In
6 terms of getting information.

7 THE WITNESS: Well --

8 JUDGE SIPPEL: Information about unauthorized
9 activations.

10 THE WITNESS: I don't know how to answer that
11 other than to say given the -- the significance he needed to
12 make sure that what he was saying was true and he also
13 wanted to find out why it had happened.

14 JUDGE SIPPEL: But -- but you said -- from your
15 testimony thus far, you were satisfied that -- that he did
16 know. I mean he had -- there was no question of fact about
17 his knowledge that there were unauthorized activations?
18 Maybe it was a question of how many, the scope, but --

19 THE WITNESS: I don't know. Again, I took it at
20 face value. He -- he expressed to us that service was being
21 provided to these locations. And again, I think he seemed
22 to be somewhat taken aback by our response that this was a
23 significant problem. And I think his response was well we
24 need to look and make sure that I'm correct number one, and
25 find out why it happened.

1 BY MR. BECKNER:

2 Q Well you say that he was taken aback by your
3 response, was -- from what he said, did you have a sense
4 that he was surprised because you said that running without
5 a license was a serious matter at the Commission? Or was
6 there some other reason that he was surprised or taken aback
7 as far as you could tell?

8 A It seemed like he was taken -- I really don't know
9 how to answer that question. Could you ask it again?

10 Q Was Mr. Price surprised, as far as you could tell
11 because you were telling him that it appeared from
12 information that he had given you that he was operating
13 without licenses? Or was it because you were telling him
14 that operating without licenses was a serious matter as far
15 as the FCC was concerned?

16 A I believe it's the former.

17 Q That you were telling him that he was operating
18 without licenses?

19 A I believe so, yes.

20 Q And he didn't understand that before, as far as
21 you know?

22 A As far as I know.

23 Q Did you bring anything with you when you went to
24 Mr. Rivera's office to refer to? You know any kind of --
25 for instance did you bring a copy of Mr. Lehmkuhl's

1 inventory with you when you went to the meeting? Do you
2 recall?

3 A Not to my recollection.

4 JUDGE SIPPEL: Why don't you ask the question this
5 way? Did you have any hard data with you to confirm the
6 accuracy of what Mr. Price was telling you, and what you
7 were telling Mr. Price at that conference call?

8 THE WITNESS: No.

9 JUDGE SIPPEL: You were just operating on the
10 basis of your recollection?

11 THE WITNESS: Right. To confirm --

12 JUDGE SIPPEL: What about Mr. Rivera? Did he have
13 copies of any of this information in his office to refer to?

14 THE WITNESS: Well, I think to confirm it, you
15 would have to have information indicating what date service
16 was activated to a particular building, and my firm and I
17 have never had that information.

18 JUDGE SIPPEL: Well, let me go back a little bit
19 about -- approach this from a different direction. The
20 purpose for the call was to talk about the Time Warner
21 petitions?

22 THE WITNESS: Correct.

23 JUDGE SIPPEL: And the call was pre-arranged.
24 You're not sure whether Mr. Price initiated the call or
25 whether it was initiated from Mr. Ginsberg's office. But

1 you were there from the beginning of the call, is that
2 right? When Mr. Price came on?

3 THE WITNESS: I believe so, yes.

4 JUDGE SIPPEL: Was there anybody else in Mr.
5 Price's office?

6 THE WITNESS: In Mr. Price's office, yeah.

7 JUDGE SIPPEL: Well I could ask the question this
8 way. Was he on a speaker phone? Would there have been
9 somebody in his office?

10 THE WITNESS: I don't recall anybody else speaking
11 from New York.

12 JUDGE SIPPEL: The only thing you recall then was
13 Mr. Price at one end of the phone and then you identified
14 the people who were in the room that you were in?

15 THE WITNESS: Correct.

16 JUDGE SIPPEL: And you were there for the entire
17 conversation, when Mr. Price actually came on?

18 THE WITNESS: That's my recollection.

19 JUDGE SIPPEL: Now how long had the conversation
20 transpired before this question of unauthorized activations
21 arose?

22 THE WITNESS: I really couldn't say.

23 JUDGE SIPPEL: Was it right off the top or did --
24 was there some --

25 THE WITNESS: No it was -- sorry to interrupt. It

1 was during the -- it was during the course of the
2 conversation. I really can't say whether it was the
3 beginning, middle or end.

4 JUDGE SIPPEL: And how -- who raised the question?

5 THE WITNESS: Again I'm not sure. There were four
6 people involved. Each of us were talking. I really don't
7 recall the prefatory question.

8 JUDGE SIPPEL: What was Mr. Price saying at the
9 time that the question came up?

10 THE WITNESS: Well he -- he told us the locations
11 that were being served.

12 JUDGE SIPPEL: Okay. And what was the purpose for
13 him conveying that information -- this he can relate back to
14 the Time Warner Petitions?

15 THE WITNESS: Again that was the Time Warner
16 Petitions was the -- the reason for the meeting. And again
17 one of the issues that we were discussing was the -- the
18 delays that Liberty was experiencing.

19 JUDGE SIPPEL: All right.

20 THE WITNESS: As a result of the petitions.

21 JUDGE SIPPEL: So that at some --

22 THE WITNESS: And I think it came up in -- in the
23 course of that conversation about the delays that Liberty
24 was experiencing.

25 JUDGE SIPPEL: Okay now, at what point -- at what

1 point or what triggered or as you recall it, now trigger or
2 prompted Mr. Price to say over the phone, to identify over
3 the phone, specific addresses?

4 THE WITNESS: Again I really don't recall what the
5 triggering mechanism was. It was during the course of the
6 conversation, and that's my best recollection.

7 JUDGE SIPPEL: Okay but he did -- according to
8 your recollection, he did relay over the phone a series of
9 addresses?

10 THE WITNESS: Yes, I believe that's right.

11 JUDGE SIPPEL: And I've heard the number about a
12 dozen or so mentioned here.

13 THE WITNESS: Yes, I believe that's right.

14 JUDGE SIPPEL: Now did he start talking about one
15 or two and then somebody said to him, all right give us the
16 whole list, or give us all you have, or did he just start
17 rattling off these addresses?

18 THE WITNESS: I believe it might have been the
19 former. That it came up that service had been commenced and
20 I think you could be right well where are you operating?

21 JUDGE SIPPEL: Well who would --

22 THE WITNESS: Where are you talking about?

23 JUDGE SIPPEL: Yeah well who was probing -- who
24 was probing from that information? For that information.
25 That is, who was probing Mr. Price for that information?

1 THE WITNESS: Again I don't specifically recall.
2 Again there was Henry, Lloyd and I were all there, you know,
3 everybody was participating in the call.

4 JUDGE SIPPEL: Well who else would have that
5 information, other than yourself? I mean who -- would be
6 able to have this at your fingertips?

7 THE WITNESS: Have what?

8 JUDGE SIPPEL: About the -- the identity the
9 significance of the identity of the buildings? Because it
10 was your -- am I correct? I'm assuming it -- And my
11 assumption is to this question is is that you were the most
12 informed with respect to the buildings that were being
13 serviced, as to which there were license applications
14 pending.

15 THE WITNESS: I don't think that's -- I don't
16 that's accurate at all. I mean again -- I -- I didn't have
17 anything then or now which indicated that Liberty was
18 providing service to, you know, any building in New York,
19 much less these dozen or so that it was -- it was serving.

20 JUDGE SIPPEL: Well who -- well who --

21 THE WITNESS: Our firm had the -- has between Mr.
22 Rivera's firm and Mr. Constantine's firm, our firm had the
23 information relevant to the status of Liberty applications.
24 Such as is conveyed in Exhibit 1.

25 JUDGE SIPPEL: Well let me come back at it again.

1 So far your recollection has -- according to your
2 recollection, it was -- it was in the course of the
3 conversation that Mr. Price came up with some statements
4 about -- he was giving you some addresses, giving you the
5 group some addresses of buildings at which service had been
6 activated.

7 THE WITNESS: That's right.

8 JUDGE SIPPEL: Am I correct so far?

9 THE WITNESS: Yes.

10 JUDGE SIPPEL: And then. This was based on what I
11 was asking you somehow or other it started -- he was being
12 asked to elaborate further, or to give you all of the
13 addresses that he knew about.

14 THE WITNESS: I think that's right.

15 JUDGE SIPPEL: And now my question was, who was
16 the one of the group there that was probing him for that
17 information?

18 THE WITNESS: Each of us really I think. I'm not
19 sure who out of the three of us took the lead, but I think
20 it's fair to say that each of us was interested in finding
21 that out.

22 JUDGE SIPPEL: And was he -- was he, but he was
23 reporting that -- he was giving you this information in the
24 context of these were buildings that were actually servicing
25 customers at this time?

1 THE WITNESS: Correct.

2 JUDGE SIPPEL: All right.

3 BY MR. BECKNER:

4 Q I want to just clear up one other aspect of this.
5 Are you saying, Mr. Barr, that and I'm just going to use a
6 hypothetical address here. That that the way the
7 conversation went is that Mr. Price said "Oh we're providing
8 service to 524 East 72nd Street". And then you said "I
9 think Time Warner has petitioned to deny that thing. I
10 don't think you have a license for that address." Is that
11 how it went?

12 A I think it's -- more appropriately the way the
13 Judge described it. I think Peter made, I think we might
14 have actually had a memo with some locations listed on it
15 and I think Peter might have said "Well, we're providing
16 service to some of these". And then the follow up question
17 was well "which ones". And well, you know, we're operating
18 here and here and here and here.

19 Q So you're saying now that when you say we had a
20 memo, do you mean we the group of lawyers here in Washington
21 here in Mr. Rivera's office?

22 A I think so, yes.

23 Q Okay. Where did the memo come from?

24 A I'm not sure. I don't believe I brought anything.
25 Again I don't believe I brought anything with me to the

1 meeting. So it didn't come from me.

2 Q Well, before you attended this conference call on
3 the 27th, had you had any conversations with your associate,
4 Mr. Lehmkuhl about the Liberty applications either on the
5 27th or on the 26th or the 25th?

6 A I don't recall that, no.

7 Q So you didn't know that, in fact, he was already
8 talking to Behrooz Nourain on those dates? That he would --

9 A Michael spoke with Behrooz fairly often, was my
10 understanding. So it wouldn't shock me to discover that
11 Michael spoke with Behrooz on any given day.

12 Q But you did not know of those conversations when
13 you went to Mr. Rivera's office on the afternoon of the
14 27th? Is that what you're saying?

15 A I'm not sure what conversations you're -- you're
16 talking about.

17 Q Well --

18 A You're asking me, is it possible that --

19 Q No, I'm not asking if it's possible --

20 A -- Michael and Behrooz --

21 Q I'm asking you whether you had a conversation with
22 Mike Lehmkuhl about Liberty on the 26th or the 27th prior to
23 your attending Mr. Rivera's conference call?

24 A It's possible, but I don't specifically recall
25 that.

1 Q Okay. And your answer is you don't recall having
2 such a conversation?

3 MR. SPITZER: Your Honor, I think this has been
4 asked and answered.

5 JUDGE SIPPEL: I'm going to sustain the objection.

6 MR. BECKNER: All right.

7 JUDGE SIPPEL: It's -- I don't mean to cut anybody
8 off, but it's ten after twelve and the witness has been on
9 the stand since 9:30. And I'm not trying to put any kind of
10 a time line on this, but would this be an appropriate time
11 to take a short recess?

12 MR. BECKNER: Sure, there's no reason to make this
13 into a marathon, as far as I'm concerned.

14 JUDGE SIPPEL: Well we'll -- we'll -- we'll come
15 back at -- we'll come back at ten after -- I'm sorry in 10
16 minutes. That would be 20 after eleven. And I think we
17 should stop at about 12:15.

18 MR. BECKNER: All right, that's fine with us.

19 JUDGE SIPPEL: Not -- not -- not -- I don't mean
20 to stop your questions. I mean I just think that 12:15
21 would be an appropriate time to take a break because we're
22 going to have some more questions, obviously.

23 MR. BECKNER: That's fine, Your Honor.

24 JUDGE SIPPEL: All right we will come back then at
25 20 minutes after eleven. We're on recess.

1 (Off the record.)

2 JUDGE SIPPEL: On the record. I just want to make
3 just a comment an observation. I understand that there is
4 some repetition in the questions on cross examination. And
5 I want also want you to know that I understand that some of
6 that may be necessitated or caused by the fact that you had
7 not previously been deposed in this case.

8 The -- Mr. Beckner had early on and I believe Mr.
9 Weber, too, had asked to take your deposition early on, but
10 I had turned that request down. But it did reach a point in
11 -- as this case started to reveal itself that the necessity
12 of your testimony did become apparent to us. To me.

13 So we are operating a little bit under that kind
14 of a handicap so if you just try and be a little bit
15 patient.

16 THE WITNESS: Okay.

17 JUDGE SIPPEL: Okay, Mr. Beckner.

18 BY MR. BECKNER:

19 Q Mr. Barr, I'd like you to take a look at Exhibit -
20 - Time Warner Cablevision Exhibit 44. That's the building
21 records that --

22 A That would be in this --

23 Q -- you had previously identified for us. I'd like
24 you to go to the page that contains the records, time
25 entries for the second half of April 1995 that has

1 production number 17502 on it.

2 JUDGE SIPPEL: Well just before you move into
3 another area on this, maybe you're going to come -- are you
4 going to come back to this meeting?

5 MR. BECKNER: It's the same area, Your Honor.

6 JUDGE SIPPEL: All right. Go ahead.

7 BY MR. BECKNER:

8 Q Going at it from a different direction. Do you
9 have that page in front of you, sir?

10 A Yes, I do.

11 Q Okay. Do you see Mr. Lehmkuhl's entry for April
12 26th. One of the items in his entry is research re: pending
13 paths discussion with HJB. Does that refresh your
14 recollection at all as to whether or not you had a
15 discussion with Mr. Lehmkuhl on the 26th about Liberty
16 matters?

17 A If Mr. Lehmkuhl put it down as a billing item,
18 then I assume it took place.

19 Q But this -- this doesn't refresh your recollection
20 about it at all?

21 A Mr. Lehmkuhl and I speak all the time.

22 Q Okay what I'd like you to do is well -- let me ask
23 you another question. Who is JDJ?

24 A He's a -- it's a paralegal at our firm. Dave
25 Jeckabowski.

1 Q Okay. Does this person work under your direction
2 or under Mr. Lehmkuhl's direction?

3 A Well it depends on who gave him the assignment.
4 He's a firm -- he's a paralegal for the firm. So if any
5 particular lawyer asks him to research or obtain an item of
6 information, well then he's working for that lawyer on that
7 project.

8 Q Okay. Well Mr. -- the paralegal indicates -- his
9 time entry indicates that on the 27th he did a very best
10 search re: all Liberty applications accepted for public
11 notice since 11/94. Do you know anything about that?

12 A It doesn't refresh my recollection, no.

13 Q And on the same date, Mr. Lehmkuhl has a time
14 entry for a total of six and a half hours, research
15 telephone call with Behrooz, telephone with FCC Gettysburg,
16 draft STA request.

17 When you went to the meeting with Mr. Rivera and
18 Mr. Constantine on the afternoon of the 27th, were you aware
19 of any of this activity that these other folks were doing in
20 your firm on the same day?

21 A The STA concept was already in process and I was
22 aware of that.

23 Q Okay. Now when you say the STA concept, can you
24 explain to us what you mean by that?

25 A Preparation of requests for STA were all -- the

1 preparation of these requests was already in progress.

2 Q Okay.

3 A On the 27th.

4 Q And -- did you know the specific paths or
5 applications for which the requests were going to be
6 prepared?

7 A I don't recall.

8 Q You didn't have any kind of list or anything like
9 that from Mr. Barr or anyone, I mean from Mr. Lehmkuhl or
10 anyone that listed pending applications for which an STA
11 would be requested?

12 A Well there -- there was an inventory existed as of
13 that time which would have indicated paths for which
14 applications or buildings for which applications were
15 pending.

16 Q But what I'm asking you is whether or not the STA
17 concept to use the term I think you used a few moments ago,
18 did that include, was the concept that Liberty would apply
19 for STA for all pending applications?

20 A I don't think it was for all applications. I
21 think it was to seek authority for buildings for which there
22 was a more immediate need for service.

23 Q And had Mr. Lehmkuhl or someone else in your firm
24 gotten a list of such buildings from the client?

25 A I don't know.

1 Q Well do you know how you were -- how you meaning
2 the lawyers at Pepper & Corazzini were supposed to know
3 which buildings were among the group that for which there
4 was a more immediate need for service?

5 A Well the information -- the -- the information
6 concerning what buildings Liberty needed authority for,
7 would come from Liberty.

8 Q Oh well so had -- had somebody at Liberty told Mr.
9 Lehmkuhl or yourself we need STAs for the following
10 addresses? Is that what happened?

11 A It's impossible for me to speak as to what
12 somebody at Liberty might have told Mike Lehmkuhl.

13 Q Did somebody tell you that?

14 A Did somebody tell me what?

15 Q Give you a list of buildings for which STAs --

16 A I don't think I had a list of buildings, no.

17 Q Okay. And did Mr. Lehmkuhl have a list to your
18 knowledge?

19 A He might have. To my knowledge, no.

20 Q In any event, you never saw a list?

21 A Right. A list may have existed or he may have had
22 notes as to the locations for which Liberty desired STA.

23 Q Okay. And now let's just go back to -- to this
24 meeting on the 27th. To your knowledge, well had you met
25 with Mr. Constantine in Washington before with respect to

1 any Liberty matter prior to this date?

2 A I think I met with him once before.

3 Q Was that here in Washington or somewhere else?

4 A No in Washington.

5 Q Okay. And what was the subject of that prior
6 meeting?

7 A I think that was just a general meeting. I had
8 never met Lloyd before. I seem to recall he was in
9 Washington on other business and it was, you know, we these
10 things with the Commission were going on.

11 These things in the Southern District are going
12 on. Let's meet and get acquainted.

13 Q So when was that first meeting held then?

14 A I think it was in late January.

15 Q Would your -- would your time records reflect --
16 reflect such a meeting? If they would I would like to ask
17 you just to look at them and see if it refreshes your
18 recollection.

19 A No there's no entry in January.

20 Q Okay. Do you think you might have had such a
21 meeting but it was so brief that you would not have made an
22 entry for it?

23 A I'm not really sure why I didn't make an entry for
24 it.

25 Q All right. Anyway, let's go back to the April

1 27th meeting. Now was to your knowledge was Mr. Constantine
2 in town for the purpose of attending that meeting, or was he
3 in town for other purposes and so he attended the meeting in
4 person?

5 A No I think he had other business in Washington.

6 Q Okay. And -- and the purpose of the meeting was
7 to discuss a strategy for dealing with the Time Warner
8 Petitions to Deny is that correct?

9 A I suppose that was part of it.

10 Q Okay. Well what else was part of it?

11 A Well as I conveyed earlier, Liberty was beginning
12 to be concerned about the -- the delays in action on its
13 applications. Again, the first petitions to deny were filed
14 in January and here it's April and petitions are still
15 being filed and there's no action or hint of action from the
16 Commission.

17 Q Now if you go back to the -- to your billing
18 transcript for the second half of April '95, the week of
19 April 24th there's a number of status inquiries of the FCC
20 primarily made by Mike Lehmkuhl.

21 Was do you know why he made several status
22 inquiries in the space of like just a day or two during that
23 week? Is that something you asked him to do?

24 A It's possible that I asked him to do it. But I
25 don't have a specific recollection.

1 Q Now at the meeting you said that you said there
2 was some sort of memo before we took the break. And do you
3 recall what was in the memo? What was the content of it?

4 A I think it listed building locations.

5 Q Okay. And -- and did the memo identify any
6 significance of these building locations? That is did it
7 say these are locations for which we have applications
8 pending or what did it say about those locations?

9 A I really don't recall. I just remember that the
10 bulk of it was, you know, site listings.

11 Q And I take it was this a memo that was generated
12 by anyone in your firm?

13 A I don't believe so, no.

14 Q Do you remember who generated it?

15 A If I saw the memo, I might be able to tell you who
16 generated it.

17 Q Okay. Let me take -- let me ask you to take a
18 look at Time Warner Cablevision Exhibit 35. Which --

19 JUDGE SIPPEL: That would be in the notebook.

20 MR. BECKNER: I think it's in the back of the
21 notebook. It may be the last one in the notebook.

22 JUDGE SIPPEL: I don't think it has a tab. There
23 should be some -- yeah there's -- yes there's documents that
24 are clipped together behind the tab, that's it.

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